

TRANSCRIPT OF PROCEEDINGS

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of:
Pendleton Waugh, Charles Austin, Jay Bishop

Preferred Communication Systems, Inc and

Preferred Acquisitions, Inc

EB Docket No. 07-147

DATE OF HEARING: February 20, 2008 VOLUME: 2

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN THE MATTER OF:	:
	:
PENDLETON C. WAUGH, CHARLES	: EB Docket
AUSTIN, and JAY R. BISHOP	: No. 07-147
	:
PREFERRED COMMUNICATION	: File No.
SYSTEMS, INC.	: EB 06-IH-2112
	: NAL/Acct. No.
Licensee of Various	: 2007 32080025
Site-by-Site Licenses in the	:
Specialized Mobile Radio	: FRN No.
Service	: 0003769049
	:
PREFERRED ACQUISITIONS, INC.	: FRN No.
	: 0003786183
Licensee of Various Economic	:
Area Licenses in the 800 MHz	:
Specialized Mobile Radio	:
Service	:
	:

Wednesday
February 20, 2008

Hearing Room TW A-363
445 12th Street, S.W.
Washington, D.C.

The above-entitled matter came on
for pre-hearing conference, pursuant to
notice, at 10 a.m.:

BEFORE:

HONORABLE ARTHUR I. STEINBERG
Administrative Law Judge

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1 P-R-O-C-E-E-D-I-N-G-S

2 10:00 a.m.

3 JUDGE STEINBERG: This is a pre-
4 hearing conference in EB Docket Number 07-147.

5 The conference was requested by, I
6 guess Counsel for the Bureau, and so I'll let
7 you tell us why we're here.

8 MS. SINGH: Thank you, Your Honor.

9 JUDGE STEINBERG: Although I
10 suspect I know.

11 MS. SINGH: Yes, Your Honor.

12 Just to give the Court a heads up.
13 Yesterday, late yesterday in fact, the
14 Enforcement Bureau filed several motions to
15 compel against Jay Bishop, Charles Austin,
16 Preferred Acquisitions, Inc. and Preferred
17 Communications Systems, Inc. Three of those
18 parties are represented by counsel here today,
19 Mr. Kaufman and Mr. Keller and we've given
20 them copies of the pleadings today without
21 their attachments because the pleadings were
22 too voluminous to send by e-mail. We have

1 sent those by regular mail.

2 Mr. Waugh, the other party in this
3 proceeding is represented by Mr. Silva here
4 today and we've given him copies of the
5 pleadings as well.

6 As we discussed in a telephone
7 conference with all the parties present here
8 today a couple of weeks ago, the Enforcement
9 Bureau has been involved in several discovery
10 disputes with the other parties with the
11 exception of Mr. Waugh and at this time
12 although we had hoped to get all of our
13 discovery completed and rulings on any
14 disputes that would have arisen by this point,
15 we have been unable to reach that compromise
16 or to get those rulings and get the motions
17 filed before Your Honor until this point.

18 Accordingly, at the telephone
19 conference we requested if Your Honor would be
20 amenable and if the parties would be amendable
21 to an approximately three-month extension of
22 all the current dates that remain on the

1 procedural schedule which would include the
2 discovery deadline that just lapsed on
3 February 15th. And we hope that we can get a
4 mutually agreeable procedural schedule revised
5 and ironed out for Your Honor today.

6 JUDGE STEINBERG: Anybody else
7 want to comment.

8 MR. KELLER: I'll just say for the
9 record we represent Robert Keller and David
10 Kaufman and we represent Preferred -- PCSI,
11 PAI and Charles Austin and I'll just say we
12 have no objection to the proposed scheduled
13 change.

14 JUDGE STEINBERG: Okay.

15 MR. OSHINSKY: We might note, Your
16 Honor, that counsel of course is not having a
17 chance to file any answers --

18 JUDGE STEINBERG: Oh, I know.
19 Yes.

20 Let me just say there are several
21 things pending in front of me which I thank
22 you for sending to me because my files are

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1 just a mess and stuff -- I get hard copies of
2 stuff, I get e-mail copies of stuff and they
3 never matter to get put together which is
4 ultimately my fault and my responsibility.

5 I ruled on one of them last week
6 and I assume that you've gotten that.

7 Then there's the Enforcement
8 Bureau's unopposed motion for extension of
9 filing deadline and I presume that that's
10 granted by virtue of the fact that the motions
11 to compel have been filed today. So, an order
12 summarizing the conference I'll formally grant
13 that.

14 Then there's the Enforcement
15 Bureau's request for leave to file a motion
16 for a ruling and the attachment is the motion
17 for the ruling. And then Preferred
18 Communication System's opposition and that
19 concerns objections to two admissions
20 requests.

21 What I plan to do on that is I
22 kind of -- well, let me just see because

1 without reading the motions to compel -- do
2 the rulings in your November motion impact the
3 motions to compel?

4 MS. SINGH: Yes. They do, Your
5 Honor. As a matter of fact, some of the same
6 issues that we flushed out for you in the
7 November 9 motion have resurfaced causing us
8 to file these motions to compel because we've
9 been unable to informally resolve the similar
10 disputes. And those are as a result.

11 JUDGE STEINBERG: Okay. Because
12 my thinking was to rule on all of them at once
13 so that I can be consistent.

14 MR. OSHINSKY: I think that's
15 appropriate.

16 JUDGE STEINBERG: However, if I
17 rule on the motion for a ruling, then it could
18 if I go with Preferred's position, then it
19 could obviate the need for them to answer all
20 that stuff.

21 MR. KAUFMAN: I was going to say I
22 think you've got this in front of you that we

1 filed that -- what the exchange of our things
2 awhile --

3 JUDGE STEINBERG: Right.

4 MR. KAUFMAN: -- back. And I
5 think it would save everybody time if you just
6 went ahead and just for the record. We did
7 not oppose the motion for the leave.

8 JUDGE STEINBERG: Right.

9 MR. KAUFMAN: Only the substance.

10 JUDGE STEINBERG: Right. Correct.

11 MR. KAUFMAN: And we -- we would--
12 we would -- we think it would be helpful if
13 you just went ahead and did rule on that today
14 so that people could focus on and go forward.

15 JUDGE STEINBERG: Oh, I'm not
16 ruling on it today. I would rule on it in
17 writing.

18 MR. KAUFMAN: Okay.

19 JUDGE STEINBERG: Let me -- I'll
20 consider that, consider all my options without
21 committing myself.

22 Okay. Let's get to the proposed

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1 schedule.

2 Anything more on any of that?

3 MR. KAUFMAN: I have a question,
4 Your Honor.

5 JUDGE STEINBERG: Yes.

6 MR. KAUFMAN: You granted their
7 unopposed motion for extension of time.

8 JUDGE STEINBERG: Yes. I'm ruling

9 --

10 MR. KAUFMAN: To the extent that,
11 I mean, it's going to be subsumed in our new
12 schedule and then they will have new
13 deadlines.

14 JUDGE STEINBERG: Yes. I'm
15 thinking -- what's the response time to
16 motions to compel about seven days or
17 something? Or is it 14 days, I forget?

18 MS. SINGH: Your Honor, because
19 you mailed them this time they get three extra
20 days so it would be 10 plus 3, 13 days.

21 JUDGE STEINBERG: Ten plus three?

22 MR. KAUFMAN: Well, that's going

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1 to be a weekend too.

2 JUDGE STEINBERG: Well --

3 MR. KAUFMAN: It's going to be a
4 couple of weeks.

5 JUDGE STEINBERG: -- my feeling is
6 --

7 MR. KELLER: Whenever it is,
8 there's a response date coming up in the next
9 couple of weeks.

10 JUDGE STEINBERG: Okay. And can
11 you anticipate needing more time because we
12 can set a deadline for responding to it
13 without having to rule extra extensions.

14 MR. KELLER: I think --

15 JUDGE STEINBERG: Maybe you ought
16 to read it first.

17 MR. KELLER: Yes. I was going to
18 say I think what we'll do is we'll just assume
19 it's whatever falls out in the rules and if we
20 need an extension of time I'm sure there won't
21 be any need for a ruling from you because
22 we'll probably get consent.

1 JUDGE STEINBERG: Okay. Okay.
2 That was the last thing I had.

3 Okay. Let's go off the record and
4 talk about the dates.

5 (Whereupon, off the record from
6 10:07 a.m. to 10:09 a.m.)

7 JUDGE STEINBERG: On the record.
8 Everybody's agreed to the following procedural
9 dates. Revised procedural dates.

10 May 19th, 2008, last day for filing
11 or is that a slash?

12 MS. SINGH: Yes.

13 JUDGE STEINBERG: For filing the
14 service of discovery requests,
15 interrogatories, request for production,
16 notices of deposition.

17 July 14th, 2008, completion of all
18 discovery.

19 August 5, 2008, Enforcement
20 Bureau's exchange of their direct case,
21 exhibits, etcetera.

22 August 19th and I'll put this in

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1 our orders. That's why I'm not reading it
2 all. August 19th, 2008, exchange by the
3 people we've called the caption parties of
4 their direct and response of case exhibits,
5 etcetera.

6 August 19, 2008, notification by
7 the caption parties of the Enforcement
8 Bureau's witnesses desired for cross
9 examination.

10 October 6, 2008, admission session
11 and notification by the Bureau of the caption
12 party's witnesses desired for cross
13 examination.

14 And October 14th, 2008,
15 commencement of the hearing at 9:00 a.m. in
16 the Commission's offices in Washington, D.C.

17 And we all recognize during the
18 off the record discussion that there's
19 flexibility built into the schedule due to the
20 gap between the August 19th and October 6th
21 dates.

22 And as I said, I'll issue an order

1 confirming these dates and ruling -- granting
2 your -- I can either grant it or just, you
3 know, say in light of what we would like and
4 what was done today, it's moved. So, would
5 you rather it be granted?

6 MR. OSHINSKY: I guess so.

7 JUDGE STEINBERG: Do you get like
8 extra bonuses for getting stuff granted?

9 MS. SINGH: We certainly hope so,
10 Your Honor.

11 JUDGE STEINBERG: Okay.

12 MR. OSHINSKY: We defer to the
13 court, Your Honor.

14 JUDGE STEINBERG: Okay.

15 MR. OSHINSKY: Whatever you feel.

16 JUDGE STEINBERG: Okay.

17 Anything else we have to talk
18 about today?

19 MR. OSHINSKY: Can we go off the
20 record for just one minute?

21 JUDGE STEINBERG: Sure.

22 (Whereupon, off the record from

1 10:11 a.m. to 10:15 a.m.)

2 JUDGE STEINBERG: If there's
3 nothing further to do today then we'll stand
4 in recess. I should note -- I should have
5 noted earlier that the appearances of counsel
6 are the same as they were last time except Mr.
7 Zuckerman is not here and Jay Bishop is not
8 represented.

9 MR. KAUFMAN: And I changed firms.

10 JUDGE STEINBERG: You know, I
11 don't care. Nobody cares about that, but I'm
12 teasing. Let the record reflect teasing.

13 Okay. Then we'll go off the
14 record now and thank you very much.

15 MR. KAUFMAN: Thank you.

16 (Whereupon, the above-entitled
17 matter was concluded at 10:15 a.m.)
18
19
20
21
22

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Pendelton Waugh et al, Preferred Communication Systems, &
Preferred Acquisitions

Name of Hearing

EB DOCKET NO. 07-147

Docket No. (if applicable)

445 12th STREET, S.W., WASHINGTON, D.C.

Place of Hearing

February 20, 2008

Date of Hearing

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 9, inclusive, are the true, accurate and complete transcript prepared from the reporting by _____ Kevin Connolly _____ (Reporter's Name) in attendance at the above identified hearing, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription statement of Work and have verified the accuracy of the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing or conference.

February 20, 2008

Kevin Connolly

Date

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February 20, 2008

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